

# **Chevy Chase Village Board of Managers**

## **September 11, 2006**

### **BOARD OF MANAGERS**

Douglas B. Kamerow, Chair	Absent
David L. Winstead, Vice Chair	Present
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

### **STAFF**

David R. Podolsky, Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy A. Gordon, Police Chief	Absent
Adventino Dasilva, Police Sergeant	Present
Shana R. Davis-Cook, Manager of Administration	Absent
Michael W. Younes, Administrative Assistant	Present

David L. Winstead, Vice Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:30 p.m. Dr. Kamerow was absent.

### **Approval of Minutes from the July 10, 2006 Board Meeting**

Ms. Eig submitted changes to the minutes from the July 10, 2006 Board of Managers' meeting, a draft of which was circulated to the Board prior to the meeting.

**Mr. Yeo made a motion to approve the minutes of the July 10, 2006 Board Meeting as amended. Ms. Feldman seconded the motion. Mr. Winstead, Ms. Eig, Ms. Feldman and Mr. Yeo voted in favor of the motion. Ms. Stephens and Mr. Jones did not vote as they were absent from the July 10, 2006 meeting. The motion passed.**

### **Treasurer's Report**

Copies of the Treasurer's report were distributed to the Board prior to the meeting. Discussion followed regarding the Village's FY06 year-end financial results.

### **Committee Reports**

#### **Brookville Road Working Group**

Mr. Biddle stated that the first autumn meeting of the Brookville Road Working Group (Working Group) is set for October 4. Positive feedback was received from the State Highway Administration (SHA) over the summer months. Mr. Biddle added that two (2)

challenges were ahead: Americans with Disabilities Act (ADA) waivers for minimum walkway widths and Stormwater quality management.

Ms. Feldman asked if the stormwater issues are a result of the potential placement of new walkways/sidewalks or the issues already exist and/or are grandfathered. Mr. Biddle responded that stormwater issues currently exist but if we install walkways/sidewalks, we may be required to address them.

Ms. Eig asked if the potential need to upgrade stormwater drainage would mean an elevated curb face would be used. Mr. Biddle stated that the proposal allows construction of both elevated and/or at grade walkways/sidewalks. Mr. Biddle added that the engineers may find that there might be places where an elevated walkway/sidewalk would be preferable. Mr. Biddle added that the Working Group has not yet addressed walkway/sidewalk surface texture. The Working Group has only addressed a plan view of a path located along the east side of the roadway.

Mr. Biddle stated that at the Working Group's meeting, the agenda would probably include discussion of design, gathering consent and support from abutting residents and potential construction matters. Discussion followed.

#### **Decisions on Previous Appeals**

None.

#### **Appeals**

**A-1562: Mr. and Mrs. Joseph H. Coreth, 5508 Park Street—Removal of one White Pine tree measuring 32-inches in diameter located in the rear yard of the property.** The residents, Mr. and Mrs. Coreth, were in attendance and presented their request.

Ms. Eig suggested that a canopy tree be placed in the front of the house. Ms. Eig stated that it has been the intention of the Tree Committee to plant a street tree in front of the residence for many years. Ms. Eig suggested the Board require the placement of a reforestation tree in the front of the residence. Mr. Biddle added that with the resident's concurrence and collaboration, the Village would plant a street tree in the public right of way adjacent to the property. Discussion followed.

**Ms. Feldman made a motion to direct Counsel to draft a decision approving the removal of one White Pine tree measuring 32-inches in diameter located in the rear yard of the property, on the condition the applicant will not object to or interfere with the Village's planting of a deciduous hardwood street tree that must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet. Ms. Eig seconded the motion. Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-1573: Mr. and Mrs. Richard D. Kline, 7 Primrose Street—Removal of one Holly tree measuring 15.5 inches in diameter located in the rear yard of the property.** Mr. Kline was in attendance and presented his request.

Ms. Feldman stated that an e-mail was received from Samuel Lawrence, member of the Village Tree Committee, in which he indicated, “that although it was a lovely tree, it was badly placed”. Discussion followed.

**Mr. Jones made a motion to direct Counsel to draft a decision approving the removal of one Holly tree measuring 15.5-inches in diameter located in the rear yard of the property, provided the applicants reforest with at least one deciduous hardwood tree that must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet. Mr. Yeo seconded the motion. Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-1574: Mr. Bruce E. Becker, Jr. and Ms. Natalie S. Jennings, 37 Oxford Street—(a) Removal of one Cedar tree measuring 11.0-inches in diameter located in the rear yard of the property; (b) Removal of one Spruce tree measuring 8.0-inches in diameter located in the rear yard of the property.** Ms. Jennings was in attendance and presented her request.

Mr. Winstead and Ms. Feldman asked if the Village Tree Committee could assist in finding a suitable location for the reforestation tree. Discussion followed.

**Ms. Eig made a motion to direct Counsel to draft a decision approving the removal of one Cedar tree measuring 11.0-inches in diameter and one Spruce tree measuring 8.0 inches in diameter located in the rear yard of the property, provided the applicants reforest with at least one deciduous hardwood tree that must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet. Ms. Feldman seconded the motion. Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-5089 (a): Mr. and Mrs. Robert Fossi, 5600 Western Avenue—a) Install a six-foot, six-inch high wrought iron fence measuring twenty-seven feet (27') in length along the property line abutting Cedar Parkway and measuring sixteen feet (16') in length between the front property line (Cedar Parkway) and the west wall of the house, and b) install a wrought iron gate and columns, which would include lights, measuring six feet, six inches (6'-6") in height along the property line abutting Cedar Parkway, with an additional one foot (1') high rose trellis above the columns for a maximum height of seven feet, six inches (7'-6") in front of the twenty-five foot (25') front building restriction line, and c) install a wrought iron gate measuring six feet, six inches (6'-6") in height between the west wall of the house and the property line abutting Cedar Parkway, in front of the twenty-five foot (25') front building restriction line.** Ms. Fossi was in attendance and presented her request.

Ann-Marie Lynch of 5500 Cedar Parkway testified that she objects to the proposed fence because of its height.

Betty Tubbs of 5509 Montgomery Street stated that she felt wrought iron fences are more visually appealing, even at 6.5 feet high, than a stockade fence.

Discussion followed in opposition to and in support of the request.

**Ms. Stephens made a motion to direct Counsel to draft a decision approving the a) installation of a six-foot, six-inch (6'-6") high wrought iron fence measuring twenty-seven feet (27') in length along the property line abutting Cedar Parkway and measuring sixteen feet (16') in length between the front property line (Cedar Parkway) and the west wall of the house, and b) installation of a wrought iron gate and columns, which would include lights, measuring six feet, six inches (6'-6") in height along the property line abutting Cedar Parkway, with an additional one foot (1') high rose trellis above the columns for a maximum height of seven feet, six inches (7'-6") in front of the twenty-five foot (25') front building restriction line, and c) installation of a wrought iron gate measuring six feet, six inches (6'-6") in height between the west wall of the house and the property line abutting Cedar Parkway, in front of the twenty-five foot (25') front building restriction line. Mr. Yeo seconded the motion. Mr. Winstead, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Eig voted in opposition of the motion. Ms. Feldman abstained. The motion passed.**

## **Old Business**

**Donation Request—Ellen's Run:** Phyllis Kass of 33 West Irving Street and Pamela Feinstein were in attendance to represent the B-CC Community Scholarship Fund, and presented the request for a donation from the Village. Ms. Kass stated that the run is in honor of Ellen Schneider and would benefit two organizations that were supported by Ms. Schneider, the Bethesda-Chevy Chase (B-CC) High School Community Scholarship Fund and the Mental Health Association of Montgomery County, and stated that money raised would be evenly divided between the two charities. Ms. Feinstein explained that the scholarship fund is supported through individual and private contributions. The scholarships are given to those most in need. There is no application process and 100% of money that is contributed to the fund is distributed. Last year, the fund awarded two (2) four-year scholarships in the amount of \$4,500 each and 17 other scholarships in the amount of \$1,500 each.

Mr. Winstead and Ms. Stephens asked if there was precedent for Village contributions to charities. Mr. Biddle stated that since he has been with the Village there have been three (3) contributions to schools - Chevy Chase and Somerset Elementary Schools and B-CC High School - and all were associated capital improvements. He stated that Village contributions were also made to the Chevy Chase Historical Society and to a special fund designated for the renovation of Norwood Park.

Mr. Yeo suggested the Village look into contributing directly to the Scholarship fund. Mr. Jones voiced opposition to contributing residents' tax dollars without a direct benefit to residents. Ms. Stephens agreed and asked if the Village could distribute information or flyers to the residents in the *Crier*. Mr. Winstead asked if the Village has ever advertised events of this nature before. Mr. Biddle stated he was not sure and would look into it.

Margaret Cook of 5410 Center Street testified that while this is a good cause, tax money should not be used for donations.

Ann-Marie Lynch of 5500 Cedar Parkway agreed that the Village should not donate because this would open the door to other charities.

Betty Tubbs of 5509 Montgomery Street concurred with Ms. Lynch's comments.

Ms. Kass stated that it was not just any charity and that Village residents could benefit from the Scholarship Fund.

Mr. Yeo stated that precedent had been set because the Village has contributed to schools. Ms. Feldman replied that those donations were to another government agency directly benefiting the Village and its residents.

**The Board agreed that it would not be appropriate for the Village to contribute to Ellen's Run.**

## **New Business**

**Discussion of: An ordinance to amend Section 8-29 of the Village Code to require that all wires, cables, pipes, poles, transformers, equipment lockers and other utility structures in the public right-of-way must be located below grade.** Mr. Biddle explained that this ordinance sets a standard of underground placement for any organization that wants to install a new wire network or to upgrade an existing network.

Betty Tubbs of 5509 Montgomery Street stated that she has friends with homes in Potomac that have been wired underground and added that there were numerous disruptions to the public space in front of their homes. Ms. Tubbs asked if that would be the case in the Village. Mr. Biddle stated there are methods that are available to minimize the amount of disruption. Using "micro-trenching" technology, crews can make a minimal cut in the roadway, approximately five inches (5") deep, insert a fiber and seal the crack.

Mr. Winstead asked how the connection is made to the house. Mr. Biddle explained that there would be a junction box placed outside the street below grade for every 5-6 houses where the fiber would be activated upon request for service. A technician would then coordinate with the resident to determine how the line would be run: hand dig a trench, directionally bore or "stitch bore".

Mr. Jones asked if adoption of the ordinance would allow *Verizon* to enter the Village and tear up the roadways. Mr. Biddle stated that while utility and service companies must still apply for a permit from the Village, he does not believe that the Village has the authority to dictate the means and methods of installation.

Mr. Winstead suggested adding a statement that indicates the “the least intrusive technology” must be used. Mr. Podolsky replied that the potential costs of that technology could be significantly more expensive and federal law prohibits creating a cost-prohibitive barrier.

The Board asked Mr. Biddle to work to gain an understanding of the technical issues surrounding fiber optics and the installation process from *RCN*, and report back to the Board prior to the October meeting before inviting *RCN* and/or *Verizon* to the meeting.

**Potential Consolidated Municipality Franchise Agreement Negotiations.** Mr. Podolsky stated that *Verizon* contacted him about meeting with the municipalities to discuss the possibility of getting a cable franchise agreement with the municipalities separate from the County.

Mr. Podolsky stated that after a preliminary meeting with *Verizon* he was advised by the County that it may have reached an agreement. There will be a briefing by the County on Thursday, September 14 to discuss the tentative agreement.

Ms. Feldman asked what would happen if the Village refused to grant a franchise to *Verizon* on the terms negotiated by the County. Mr. Podolsky stated *Verizon* could say the Village is the only place within the County that would not have *Verizon* cable television service *or* *Verizon* could file a formal application with the Village and the Village would have 90 days to approve or reject it with all of the procedure required that an independent evaluation would entail. Mr. Winstead responded that he believed that the Village should go with the County. Discussion followed.

### **Chairman’s Report**

Mr. Winstead relayed complimentary resident feedback regarding staff help in resolution of a weekend private property tree issue.

### **Manager’s Report**

#### **Security Cameras**

Mr. Yeo suggested that smaller cameras and camera housings be considered within the Buffer Area. Discussion followed.

#### **Chevy Chase Center Blasting Damages**

Ms. Stephens requested an update regarding the blasting damages. Mr. Biddle stated that the insurance and construction companies had withdrawn their support for the near-finalized workout agreement. Margaret Cook of 5410 Center Street stated that she thought the original agreement stated that surveys would be completed both before and after blasting and if damage were found, residents would be reimbursed.

Mr. Yeo asked if the Village could sue the Land Company for damage. Mr. Podolsky responded that the Village residents could sue anyone they choose, however, the Village cannot sue on behalf of the residents and can not sue on its own behalf because the Village did not receive any damages to the Village Hall or other Village property. Discussion followed.

### **Police Report**

Copies of the monthly Police Report were distributed to the Board prior to the meeting. Discussion followed.

**Ms. Eig made a motion to adjourn the meeting. Ms. Stephens seconded the motion. Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 10:21 p.m.**

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Secretary, Chevy Chase Village Board of Managers

*Final.*